THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14439 of 2005

DATED:4.8.2005

Between:

M/s.Galaxy Enterprises and another

…Petitioner

And

Andhra Pradesh State Wakf Board and another

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14439 OF 2005

ORDER:

First petitioner is a partnership firm and second petitioner is a registered contractor. They are engaged in maintenance work. They filed the Writ Petition aggrieved by the action of first respondent in awarding contract to second respondent for maintenance work of A.P.Haj House for a sum of Rs.35,000/- per month for a period of twelve months. It is the case of the petitioners that last year first respondent invited tenders and awarded contract to a more responsive bidder. However, this year first respondent negotiated with second respondent and awarded the contract. Initially, the Writ Petition was filed challenging the impending action of first respondent and subsequently by proceedings dt.8.7.2005 when first respondent awarded contract to second respondent, appropriate amendment is sought. The petitioner therefore filed an application for amending the prayer challenging the proceedings of first respondent awarding maintenance work to second respondent and same was ordered.

When the matter was called at interlocutory stage, learned Standing Counsel for A.P.Wakf Board was directed to produce relevant file. Today, the relevant file is produced which shows that first respondent did not call for any tenders and issued proceedings dt.8.7.2005 awarding contract to second respondent. This action of first respondent is assailed in the Writ Petition.

Attention of this Court is invited to A.P.Wakf Rules, 2000 (for short, the Rules). Rule 13 deals with Regulation and functions of Wakf Board regarding execution of contracts under Section 32(2) read with Section 109(2) of the Wakf Act, 1995 (for short, the Act). Sub-rule (3) thereof reads as under.

> 13(3). Where the board propose to enter into any contract for the supply of material or for the execution of any work, the estimated cost of which is Rs.20,000/- (Rupees twenty thousand) or more, the Chief Executive Officer and Ex-Officio Secretary shall invite sealed tenders therefore by advertising in at least two of the newspapers having wide circulation in the State. Every advertisement shall specify the period within which the tenders shall be sent to the Board, the amount of earnest money to be deposited by the tenderer, and the date of opening.

When the Rules are binding on A.P.Wakf Board and those Rules require the Board or its Chief Executive Officer to invite tenders by advertising at least in two newspapers having wide circulation in the State and then award contract for supply of material or for execution of work, awarding contract by negotiations to any person *ex facie* is illegal and cannot be sustained. The action of the first respondent therefore is in contravention of Rule 13(3) of the Rules. The legal position is not disputed by learned counsel for second respondent also.

Accordingly, this Writ Petition is allowed and the proceedings of first respondent dt.8.7.23005 are set aside. It shall, however, be open to first respondent to invite tenders for the maintenance work and award contract to a more responsive tenderer. Pending finalisation of the tenders, it shall be open to first respondent to continue to take work from second respondent. The exercise of inviting tenders and finalisation of tenders shall be completed within four weeks from the date of receipt

of a copy of this order.

_____

(V.V.S.RAO, J)

4.8.2005

bnr

Note:Office to dispatch copy by 8.8.2005.

(B.O)

bnr